



Los Angeles County
Department of Regional Planning
Planning for the Challenges Ahead



Richard J. Bruckner
Director

June 28, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**HEARING ON ORDINANCE EXTENDING INTERIM
ORDINANCE NO. 2016-0022U
ON THE INTERIM BAN ON THE CULTIVATION, MANUFACTURING,
LABORATORY TESTING, AND DISTRIBUTION OF MEDICAL MARIJUANA
IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES
(ALL SUPERVISORIAL DISTRICTS) (4-VOTES)**

SUBJECT

On April 12, 2016, the Board of Supervisors (Board) enacted Interim Ordinance No. 2016-0022U to temporarily prohibit the cultivation, manufacturing, laboratory testing and distribution of medical marijuana, and prohibit their establishment on all properties located in the unincorporated territory of the County of Los Angeles. On May 24, 2016, the Board extended Interim Ordinance No. 2016-0022U to June 28, 2016. During this extended period, the Department of Regional Planning (Department) met with Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sheriff, District Attorney, and County Counsel to discuss key issues and develop a framework for the study and report to the Board.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

Adopt the ordinance extending Interim Ordinance No. 2016-0022U for a period of one year.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Board enacted Interim Ordinance No. 2016-0022U on April 12, 2016, to temporarily prohibit the cultivation, manufacturing, laboratory testing and distribution of medical marijuana, and prohibit their establishment on all properties located in the unincorporated territory of the County of Los Angeles.

During the temporary prohibition enacted by the Interim Ordinance No. 2016-0022U, a study will be prepared focusing on possible impacts that medical marijuana activities, conducted pursuant to the Medical Marijuana Regulation and Safety Act (MMRSA), could have on residents and the properties located in all zones in the County unincorporated territory. The study shall also consider a possible permanent zoning ordinance amendment to address any impacts identified by the study, and estimate potential revenues to the County that might result from the licensure and taxation of medical marijuana cultivation, manufacturing, laboratory testing, and distribution activities.

Zoning Analysis

A comprehensive zoning study will be prepared that will analyze regulations currently applied to medical marijuana uses in other state, county, and city jurisdictions. The study will also include a comparative analysis of these regulations with the existing requirements of the unincorporated territory of the County of Los Angeles.

Appropriate regulations and safeguards will be necessary if the Board votes to allow certain or all medical marijuana activities. Any proposed amendments to Title 22 (Zoning) must be consistent with the Countywide General Plan, identify the allowable zones marijuana uses are allowed, specify the type of review process that will be required, and provide development and/or operational standards. If the Board ultimately decides to amend the County Code to allow medical marijuana uses, an Environmental Impact Report (EIR) may be required to adequately study potential impacts that include, but are not limited to, fiscal/financing, environmental, social, health, and criminal/public nuisance. Preparing an EIR will require both time and financial resources through the County's Request for Proposal procedure. The scope and complexity of the EIR will affect the overall project schedule.

FISCAL IMPACT/FINANCING

Extension of Interim Ordinance No. 2016-0022U will not result in a loss of revenue generated from permit fees. Medical marijuana dispensaries have been banned in the unincorporated areas since 2011. The cultivation, manufacturing, laboratory testing, or distribution of medical marijuana are not listed as allowed land uses in Title 22 (Zoning Code), and thus are not permitted. There are no pending applications for medical marijuana related uses, and in the absence of the Interim Ordinance, no new applications would be accepted under the Department's current regulations.

If the Board directs staff to develop regulations to allow medical marijuana uses in the unincorporated County, it is not known at this time what zones would allow medical marijuana uses, which departments would regulate, or what type of application(s) would be required. Additional research is necessary to provide an estimate of anticipated application fees and costs to the various County departments to implement new regulations, as well as associated costs to provide effective enforcement.

The Department is working collaboratively with the Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sheriff, District Attorney, and County Counsel to obtain the information necessary to complete the comprehensive zoning study.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Interim Ordinance No. 2016-0022U, first adopted by the Board on April 12, 2016, will expire on June 28, 2016, unless extended by Board action. Pursuant to Government Code, Section 65858, Interim

Ordinance No. 2016-0022U temporarily prohibits the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, until these activities can be fully analyzed and recommendations can be made to the Board for possible adoption.

In 1996, the Compassionate Use Act (CUA) was enacted for the purpose of "ensur[ing] that seriously ill Californians have the right to obtain and use marijuana for medical purposes" upon a physician's recommendation (Health & Safety Code, § 11362.5(b)(1)(A)). The CUA decriminalizes the cultivation and possession of marijuana, but only for a patient or the patient's primary caregiver where the marijuana is possessed or cultivated for the medical purposes of the patient upon the written or oral recommendation of a physician (Health & Safety Code, § 11362.5(d)).

In 2003, the Medical Marijuana Program Act (MMPA) was enacted to clarify the scope and applicability of the CUA, and to "facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution..." and "[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects." (Stats. 2003, Ch. 875, section 1(b)(1) & (3)). The MMPA also exempts cooperative and collective cultivation of medical marijuana by qualified patients and their primary caregivers from certain State criminal sanctions (Health & Safety Code, § 11362.775).

In October 2015, the California State Legislature enacted a comprehensive package of bills to establish a statewide regulatory structure for commercial medical marijuana activities. Together, Assembly Bills 266 and 243, and Senate Bill 643 comprise MMRSA and regulate licensing and enforcement of commercial medical marijuana. MMRSA, which became effective January 1, 2016, and which will be administered and overseen by the newly created State Bureau of Medical Marijuana Regulations, provides statewide uniform standards, but allows local jurisdictions to implement additional standards. MMRSA provides a dual licensing structure for commercial medical marijuana activities including cultivation, manufacturing, laboratory testing, distribution, dispensing, and transportation. It also preserves police power for local jurisdictions to permit, regulate, or ban medical marijuana activities.

Marijuana dispensaries have been banned in the unincorporated County since 2011. The cultivation, manufacturing, laboratory testing, or distribution of medical marijuana are not listed as allowed land uses in Title 22 (Zoning Code), and thus are not permitted. Although the prohibition of marijuana in the unincorporated County of Los Angeles is consistent with federal law, state laws allow marijuana for medical use and thus are in conflict with federal law.

ENVIRONMENTAL DOCUMENTATION

Environmental Impacts

During the Department's discussions with other County agencies, key topics of environmental concern included water usage, pesticide control, hazardous materials, and pollution. Cannabis has been identified in preliminary research as a water intensive crop. If an EIR is prepared, an analysis on the amount of water needed for the cultivation of cannabis should be studied to determine its impact on existing water supplies.

Pesticide control, which is regulated by several different bureaus, should be studied to identify the types of pesticides commonly used in cannabis cultivation. Identifying the types of pesticides used in cultivation and their harmful effects is important for determining what zones and areas are appropriate for cannabis cultivation. The Environmental Protection Bureau enforces pesticide laws

and detects exotic insect pests which threaten California agriculture. The Agricultural Pesticide Regulation Division enforces laws that protect the public, pesticide applicators, farm workers, crops, and the environment from improper or unsafe uses of pesticides. The Structural Pesticide Regulation Division enforces laws on pesticide use by hundreds of pest control companies operating within the County. The Pest Detection Division places and services over 24,000 insect traps annually to detect exotic insect pests which pose threats to California's agricultural and horticultural crops.

To ensure that marijuana products are safe for consumption, regulations will need to be created to protect the public from hazardous materials used in the manufacture of marijuana products. Identifying and regulating the types of chemicals used in the cultivation and manufacturing of marijuana products is essential to ensuring its safe use, and protecting the public from potential hazards.

Pollution is another potential impact that should be studied within an EIR. Runoff of chemicals/pesticides used in the cultivation and manufacturing of marijuana could impact surrounding land uses. If marijuana uses are allowed, potential code amendments should regulate how chemicals are stored, used, and safely disposed of to minimize impacts.

Social Impacts

Social impacts may result from the proximity of marijuana uses to specific sensitive uses such as schools, churches, and public areas. An EIR should examine safe distances to locate marijuana uses away from specific types of sensitive land uses. Marijuana also has the potential to impact communities by creating undesirable secondary effects. Evaluating social impacts will help staff determine which zones and areas are appropriate for marijuana uses, should they be allowed.

Public Health Impacts

There are both positive and negative health impacts associated with the use of marijuana. Pursuant to State law under certain conditions, marijuana may be recommended for the treatment of a variety of medical problems. The study will include research on the potential health benefits and risks of marijuana.

Criminal/Public Nuisance Impacts

Marijuana has been legalized for both medical and adult recreational use in several states, counties, and city jurisdictions outside of California. An analysis of these regulatory frameworks will help address the issues of crime and public nuisance related to marijuana use. The zoning study will also examine whether there is a link between an increase in crime and public nuisance following legalization of marijuana.

If marijuana uses are legalized, the County Code must be amended to properly regulate and enforce their safe use. A summary and analysis of regulations currently enforced by other states, counties, and cities will be prepared in the zoning study.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The proposed ordinance would not impact current services or projects as marijuana land uses are currently not permitted in the unincorporated territory of the County of Los Angeles. The

comprehensive zoning study will need to evaluate training and education that will be necessary for both the County workforce and the public.

Potential impacts requiring the enforcement of new code amendments will also need to be studied. Proper regulation will require coordination with state agencies as well as with the various County departments including, but not limited to, the departments of Regional Planning, Treasurer and Tax Collector, Public Health, Agricultural Commissioner, Sherriff, District Attorney, and County Counsel.

CONCLUSION

Extending Interim Ordinance No. 2016-0022U is necessary for the Department to have sufficient time to provide a comprehensive zoning analysis on current laws, potential impacts, and options for potential code amendments. Allowing marijuana land uses without appropriate analysis and regulation may cause irreparable harm to the physical appearance, condition, and character of areas where marijuana uses may be established. It may also impact water supplies and/or water quality, and may negatively impact the health, safety, and welfare of the general public. Additionally, unless Interim Ordinance No. 2016-0022U is extended, an irreversible incompatibility of land uses and the possible loss of vegetative habitat and groundwater supply may reasonably occur, to the detriment of the public health, safety, and welfare. Such conditions pose a current and immediate threat to human health, safety or welfare absent the extension of the restrictions of Interim Ordinance No. 2016-0022U.

On May 24, 2016, the Board extended Interim Ordinance 2016-0022U to June 28, 2016. Per the provisions of Section 65858, the Interim Ordinance may be extended a second time for a period not to exceed one year. An extension of Interim Ordinance 2016-0022U is recommended to allow sufficient time for the Department to complete a comprehensive zoning study with possible ordinance amendment options for the Board's consideration.

Extension of this ordinance requires that the Board conduct a public hearing at which time the ordinance extending Interim Ordinance No. 2016-0022U may be adopted by no less than a four-fifths vote. The date of the public hearing has been set for June 28, 2016. Notice of this public hearing has been published as required by law.

The proposed ordinance, extending Interim Ordinance No. 2016-0022U, has been prepared by County Counsel and transmitted to you.

If you have any questions, please contact Bruce Durbin, Section Head, Ordinances Studies Section, Advance Planning Division at (213) 974-6432 or BDurbin@planning.lacounty.gov.

The Honorable Board of Supervisors

6/28/2016

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Richard J. Bruckner". The signature is fluid and cursive, with a large loop at the end.

RICHARD J. BRUCKNER

Director

RJB:MC:LJ:ems

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Agricultural Commissioner
Assessor
Chief Executive Office
District Attorney
Public Health
Public Works
Sherriff
Treasurer and Tax Collector